

04/27/2020

JULIA C. DUDLEY, CLERK
BY: *H. Wheeler*
DEPUTY CLERK

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

"Baby L.," a minor, et al.,

Plaintiffs,

v.

Dr. MARK ESPER, in his official capacity as
Secretary for the U.S. Department of Defense
et al.,

Defendants.

Civil Action No. 3:20-cv-9

FILED UNDER SEAL

JOINT SUBMISSION OF PROPOSED REDACTIONS

Pursuant to the Court's Order of April 23, 2020 [ECF No. 23], and in accord with the parties' agreement as set forth in Defendants' Supplemental Response [ECF No. 21], the parties submit proposed redactions of all filings to date that are identified with an asterisk (*) after the docket number in the table below, which revises and supersedes the table previously included in ECF No. 11. In summary, the parties propose the following:

Remain under seal in their entirety:

- ECF No. 4 exhibits A, B, C, D, G, K, P, X¹

¹ The parties also note that the transcript of the TRO hearing, docketed at ECF No. 18, should remain sealed until otherwise ordered, and only after the parties propose redactions consistent with those proposed herein, given that the underlying TRO hearing was sealed, notwithstanding general procedures for making transcripts public after 90 days.

Publish redacted versions submitted herewith:

- ECF No. 1
- ECF No. 4 & exhibits E, F, H, I, J, L, M, N, O, W
- ECF No. 5
- ECF No. 6
- ECF No. 10
- ECF No. 11
- ECF No. 13
- ECF No. 14
- ECF No. 21

Publish unredacted versions:

- ECF No. 4 exhibits Q, R, S, T, U, V; 4-25 (Civil cover sheet)
- ECF No. 22

Dkt. #	Document description	Defendants' position
1*	Plaintiffs' Motion for Leave to Proceed Using Pseudonyms and to File and Proceed Under Seal	Redact additional information as shown in proposed redacted ECF 1, submitted herewith. The additional redacted information was identified by Plaintiffs as implicating their privacy interests.
4*	Plaintiffs' Verified Complaint and Petition for a Temporary Restraining Order	Redact additional information as shown in proposed redacted ECF 4, submitted herewith. The additional redacted information (1) derives from Exhibits P and X or otherwise would reveal details of U.S. military operations which, if made public, could reveal

The parties propose that they will submit agreed-upon proposed redactions for the transcript, in accord with their agreement, on or before May 11, 2020.

		<p>military capabilities and harm the national security interests of the United States; (2) describes the medical condition of Baby L; or (3) was identified by Plaintiffs as implicating their privacy interests.</p> <p>.</p>
4-1 (ex.A)	Photograph of Baby L	Remain under seal to protect privacy of minor child
4-2 (ex.B)	Photo ID card for Baby L (redacted)	Remain under seal to protect privacy of minor child
4-3 (ex.C)	State Court Order of Nov. 6, 2019 (redacted)	The unredacted version of this order is under seal in the state court. Defendants do not oppose the continued sealing of this document as long as it remains under seal in the underlying state court proceeding.
4-4 (ex.D)	State Court Order of Nov. 8, 2019 (redacted)	The unredacted version of this order is under seal in the state court. Defendants do not oppose the continued sealing of this document as long as it remains under seal in the underlying state court proceeding.
4-5* (ex.E)	Certificate of Foreign Birth, Baby L (redacted)	Redact additional information as shown in proposed redacted ECF 4exE, submitted herewith. The additional redacted information was identified by Plaintiffs as implicating their privacy interests.

4-6* (ex.F)	Memo (Nov. 13, 2019) (redacted) and attachment	Redact additional identifying information as shown in proposed recated ECF 4exF, submitted herewith. The additional redacted information (1) redacts identifying information of DoD personnel and (2) was identified by Plaintiffs as implicating their privacy interests
4-7 (ex.G)	Memo from Doctor, U.S. Air Force (Oct. 26, 2019) (redacted)	Remain under seal to protect privacy of minor child.
4-8* (ex.H)	Letter from Doctor, International Adoption Clinic (Feb. 14, 2020) (redacted), with attached photographs, CV, and cost estimate	Redact additional information as shown in proposed redacted ECF 4exH, submitted herewith. The additional redacted information consists of (1) photographs of Baby L and (2) information identified by Plaintiffs as implicating their privacy interests.
4-9* (ex.I)	Letter from Doctor, International Adoption Clinic (Dec. 11, 2019) (redacted)	Redact additional information as shown in proposed redacted ECF 4exI, submitted herewith. The additional redacted information consists of information identified by Plaintiffs as implicating their privacy interests.
4-10* (ex.J)	Appointment Confirmation Letter (redacted)	Redact additional information as shown in proposed redacted ECF 4exJ, submitted herewith. The additional redacted information consists of information identified by

		Plaintiffs as implicating their privacy interests.
4-11 (ex.K)	Photographs.	These photographs are from the same source as ECF 4 Exhibit P and should remain under seal for the same reasons described below, for Dkt. 4-16.
4-12* (ex.L)	Letter from Doe 1 & Doe 2, with enclosures consisting of:	Redact additional information as shown in proposed redacted ECF 4exL, submitted herewith. The additional redacted information (1) derives from Exhibits P and X or otherwise would reveal details of U.S. military operations which, if made public, could reveal military capabilities and harm the national security interests of the United States; (2) describes the medical condition of Baby L; or (3) was identified by Plaintiffs as implicating their privacy interests..
	Enclosure 1: photographs of Baby L,	Remain under seal to protect privacy of minor child.
	Enclosure 2 Single page from Dkt. #4-3	This page is part of a sealed state court filing and should remain under seal as explained in Dkt #4-3 entry above
	Enclosure 3: Certificate of Foreign Birth; Application form; Letter from Department of Defense, Manpower Data Center (Dec. 14, 2019)	Redact additional information as shown in proposed redacted ECF 4exL, submitted herewith. The additional redacted information consists of information identified by

		Plaintiffs as implicating their privacy interests.
	Enclosure 4: Insurance Coverage Screenshot	Redact additional information as shown in proposed redacted ECF 4exL, submitted herewith. The additional redacted information consists of information identified by Plaintiffs as implicating their privacy interests.
	Enclosure 6 ² : photograph of Doe 1 & Doe 2, with children	Remain under seal to protect privacy of minor children.
4-13* (ex.M)	Email chain between Doe 1 and U.S. servicemembers, re: Medevac (redacted)	Redact additional identifying information of DoD personnel, as shown in proposed redacted ECF 4exM, submitted herewith. The additional redacted information (1) redacts identifying information of DoD personnel and (2) was identified by Plaintiffs as implicating their privacy interests
4-14* (ex.N)	Email chain between Doe 1 and U.S. servicemembers, re: Request to Transfer Baby L to U.S. or Germany (redacted)	Redact additional information as shown in proposed redacted ECF 4exN, submitted herewith. The additional redacted information (1) derives from Exhibits P and X or otherwise would reveal details of U.S. military operations which, if made public, could reveal military capabilities and harm the national security interests of the United

² Due to a numbering error, there was no enclosure 5 in Exhibit L.

		States; (2) describes the medical condition of Baby L; or (3) was identified by Plaintiffs as implicating their privacy interests..
4-15* (ex.O)	Email chain between Doe 1 and unidentified White House and Trump Campaign staff, re: Baby L. intervention – Request to Medically Evacuate (redacted), with attached photograph of Baby L.	Redact additional information as shown in proposed redacted ECF 4exO, submitted herewith. The additional redacted information consists of (1) photograph of Baby L, redacted to protect the privacy of minor child, and (2) information identified by Plaintiffs as implicating their privacy interests.
4-16* (ex.P)	DoD Memo, with photographs and a map	Remain under seal. This document contains information regarding U.S. military operations, including satellite imagery and scheme of maneuver tactics, which, if made public, could reveal military capabilities and harm the national security interests of the United States.
4-17 (ex.Q)	CBS News article (online printout)	No basis to remain sealed. This is a publicly available article.
4-18 (ex.R)	U.S. Dep't of Defense Instruction No. 6000.14 (Sept. 26, 2011), DoD Patient Bill of Rights and Responsibilities in the Military Health System	No basis to remain sealed. This is a publicly available article.
4-19 (ex.S)	Long War Journal article (online printout)	No basis to remain sealed. This is a publicly available article.
4-20 (ex.T)	Uighur Foreign Fighters, Policy Brief, International Centre for Counter-Terrorism – The Hague (Nov. 2017)	No basis to remain sealed. This is a publicly available document.

4-21 (ex.U)	Long War Journal article (online printout)	No basis to remain sealed. This is a publicly available article.
4-22 (ex.V)	International Committee of the Red Cross, Confidentiality Q&A	No basis to remain sealed. This is a publicly available document.
4-23* (ex.W)	U.S. Dep't of State, Trafficking in Persons Report (June 2019), U.S. Dep't of Labor's 2018 Findings on the Worst Forms of Child Labor (excerpts)	Redact all but the first page, as shown in proposed redacted ECF 4exW, submitted herewith. The redacted information was identified by Plaintiffs as implicating their privacy interests. Because the document is publicly available, release of any portion of the body of the submitted excerpts would reveal the country at issue.
4-24 (ex.X)	FCCG Pentagon, General Entry Requirements (online printout), excerpt from DoD Foreign Clearance Guide	Remain under seal. This document is from a United States Government Information System that is provided for U.S./ Government-Authorized use only. As stated on the log-in warning page, this website "contains sensitive information based on bilateral arrangements between US and foreign government officials. The information contained within this website is NOT RELEASABLE OUTSIDE THE US GOVERNMENT unless approved by the Chief of the [DoD Foreign Clearance Program]. It provides guidance and clearance requirements for aircraft international

		mission planning and execution, USG and DoD-sponsored personnel official foreign travel and, when applicable, unofficial (leave) travel....”
4-25	Civil Cover Sheet	No basis to remain sealed. The form is not filled out.
5*	Plaintiffs’ Memo in Support of Motion for Leave to Proceed using Pseudonyms and to File and Proceed Under Seal	Redact additional information as shown in proposed redacted ECF 5, submitted herewith. The additional redacted information (1) derives from Exhibits P and X or otherwise would reveal details of U.S. military operations which, if made public, could reveal military capabilities and harm the national security interests of the United States; (2) describes the medical condition of Baby L; or (3) was identified by Plaintiffs as implicating their privacy interests..
6*	Plaintiffs’ Memo in Support of Motion for Temporary Restraining Order	Redact additional information as shown in proposed redacted ECF 6, submitted herewith. The additional redacted information (1) derives from Exhibits P and X or otherwise would reveal details of U.S. military operations which, if made public, could reveal military capabilities and harm the national security interests of the United States; (2) describes the medical condition of Baby

		L; or (3) was identified by Plaintiffs as implicating their privacy interests..
6-1*	Plaintiffs' Proposed Temporary Restraining Order	Redact information as shown in proposed redacted ECF 6-1, submitted herewith. The redacted information was identified by Plaintiffs as implicating their privacy interests.
10*	Defendants' Notice	Redact information as shown in proposed redacted ECF 10, submitted herewith. The redacted information was identified by Plaintiffs as implicating their privacy interests.
11*	Defendants' Response to Plaintiffs' Motion to Seal	Redact information as shown in proposed redacted ECF 11, submitted herewith,. The redacted information was identified by Plaintiffs as implicating their privacy interests.
13*	Plaintiffs' Response re Motion to Seal	Redact information as shown in proposed redacted ECF 13, submitted herewith. The redacted information was identified by Plaintiffs as implicating their privacy interests.
14*	Plaintiffs' Notice of Voluntary Dismissal	Redact information as shown in proposed redacted ECF 14, submitted herewith. The redacted information was identified by Plaintiffs as

		implicating their privacy interests.
21*	Defendants' Supplemental Response	Redact information as shown in proposed redacted ECF 21, submitted herewith. The redacted information was identified by Plaintiffs as implicating their privacy interests.
22	Defendants' Proposed Memorialization of Court's February 26, 2020 Order	No basis to remain sealed.
?	Joint Submission of Proposed Redactions (this filing)	No basis to remain sealed.

April 27, 2020

Respectfully submitted,

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/s/ Kathryn L. Wyer
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CERTIFICATE OF SERVICE

The undersigned counsel certifies that on April 27, 2020, a true and accurate copy of the foregoing was submitted to the Court's ECF electronic mail account, copying counsel of record for plaintiffs, in order to be filed under seal in the above-captioned matter.

/s/ Kathryn L. Wyer

KATHRYN L. WYER